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10/695,137

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EXAMINER

PAUL, DISLER

ART UNIT

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2615

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/695,137

Applicant(s)

HAWKER ET AL.

Examiner

Disler Paul

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/10/05 and 7/20/05</u> .                                     | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The applicant's have amended the claims by canceling all the previous claims in last action, thus the examiner will examiner the new added claims 25-40 over relevant prior art.

### *Claim Rejections - 35 USC § 112*

2. Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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The limitation of "disabling adjustment of volume level from default volume setting of safe volume profile for a predetermined time period after the user has switched the mobile device from first selected operational mode to the handfree mode of operation" is nowhere see in the specification.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. The following is a quotation of 35 U.S.C. 102(e) which forms the basis for all obviousness rejections set forth in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25,27-28,30-31, 33, 35-36, 38-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Kraft et al. (US 2002/0107009 A1) and further in view of obviousness.

Re claim 25, Kraft disclose of the method of processing a voice call at a mobile device (fig.1-2), comprising: storing a safe volume profile at the mobile device associated with a handsfree mode of operation, the safe volume profile providing a default volume setting selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree mode of operation (page 3[0036,0037]/;

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fig.1-2, table 1-user may in addition to default mode choose others with selected volume setting may be selected & table 1 and & further see page 3[0037] / to protect the user's hearing); answering an incoming call with the mobile device and selecting one of a plurality of operational modes other than the handsfree mode of operation to process the incoming call in a first selected operational mode having an associated regular volume profile that is higher than the default volume setting of the safe volume profile (table 1, fig.2/the user may either manually or automatically select mode with volume setting other than default); switching the mobile device from the first selected operational mode to a handsfree mode of operation while processing the incoming call (page 1[0005]/mode may selectively switch by user automatically according to user preference and parameter & further see fig.2) ; and operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (page 2[0022], table 1/ phone with user volume setting may be selected by user).

Re claim 27, the method of claim 25, wherein the first selected operational mode is a handset mode of operation (page 2[table 1]/handset mode operation).

Re claim 28, the method of claim 25, wherein the first selected operational mode is a headset mode of operation (page 2[0021]).

Re claim 33. Kraft disclose of the mobile device, comprising :a memory for storing a safe volume profile associated with a handsfree mode of operation (fig.1 (10)), the safe volume profile providing a default volume setting selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree

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mode of operation (page 1[0005,0010]/control parameters with selected volume setting may be selected & table 1 and & further see page 3[0037] / volume setting for handsfree mode and further see (fig.1-2) , table 1 where user mode selecting with volume setting may be operated); a transceiver for receiving and answering an incoming call (fig.1-2/phones); a mode control system for selecting one of a plurality of operational modes other than the handsfree mode of operation to process the incoming call in a first selected operational mode having an associated regular volume profile that is higher than the default volume setting of the safe volume profile (fig.1 ;11 & page 3[0026]) , the mode control system further comprising means for switching the mobile device from the first selected operational mode to a handsfree mode of operation while processing the incoming call and means for operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (page 2. table 1-3; page 1[001]), user setting volume with parameters for changing in between mode ).

Re claim 30, the method of claim 25, further comprising: switching the mobile device from the handsfree mode of operation back to the first selected operational mode while processing the incoming call; and operating the mobile device in the first selected operational mode according to the regular volume profile (page 1[0010]; /mode may be changed with user preselected modes).

Re claim 31, the method of claim 25, further comprising: prior to answering the incoming call with the mobile device, enabling a notification on the mobile device indicating the receiving of the incoming call (page 2[table 1], [0016]).

Re claims 35-36 have been analyzed and rejected with respect to claims 27-28 respectively.

Re claims 38-39 have been analyzed and rejected with respect to claims 30-31 respectively.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 29,37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and further in view of Schmidt (US 6,522,894 B1).

Re claim 29, the method of claim 25, But, Kraft fail to further disclose of the comprising: defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation. However, Schmidt disclose a phone with mode of operation wherein the defining a maximum safe volume in the safe volume profile;

and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation (col.6 line 45-55) for providing control volume with the operating mode. Thus, taking the combined teaching of Kraft and now Schmidt as a whole, it would have been obvious for one of the ordinary skill in the art to modify Kraft by incorporating the the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation for providing control volume with the operating mode.

Re claim 37, has been analyzed and rejected with respect to claim 29.

7. Claims 26,34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and further in view of Shimizu et al. (US 2002/0031236 A1”).

Re claim 26, the method of claim 25 with switch between modes, However, Kraft fail to disclose of the further comprising disabling adjustment of the volume level from the default volume setting of the safe volume profile for a predetermined time period after the user has switched the mobile device from the first selected operational mode to the handsfree mode of operation. But, shimizu et al. did disclose of the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user with rotation (page 7[0069]) for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably. Thus, taking the combined teaching of Kraft and now Shimizu as a whole, it would have been obvious for one of the ordinary skill in the art to modify Kraft by incorporating the disabling of the adjustment of



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volume level from the safe default setting for a predetermined time period after the switching between modes by the user for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably.

Re claims 34, have been analyzed and rejected with respect to claim 26 above.

8. Claims 32,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and further in view of obviousness.

Re claim 32, the method of claim 31, further comprising: determining whether to answer the incoming call in response to the notification and diverting calls when not answered (table 1 and page 2[0016]), But, Kraft fail to disclose of the specific determining whether to redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered. However, official notice is taken that the limitation of redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify Kraft by incorporating the redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered enabling the phone user to hear miscall messages over the mobile phone.

Similarly Re claim 40, has been analyzed and rejected with respect to claim 32.


**Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-272-0087. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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